



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 14, 1998

Ms. Karen Storey
Texas Department of Protective and
Regulatory Services
P.O. Box 10528
Lubbock, Texas 79408

OR98-0964

Dear Ms. Storey:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114479.

The Texas Department of Protective and Regulatory Services (the "department") received a request for case records regarding three children. On behalf of the Lamb County District Attorney (the "district attorney"), you contend that these records are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

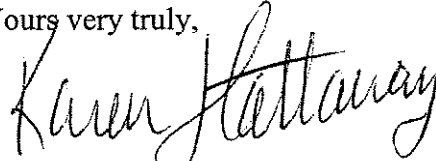
You did not raise section 552.108 within ten business days of receiving the request for records. *See* Gov't Code § 552.301. Ordinarily, this failure would result in the presumption that the requested records are public. *See* Gov't Code § 552.302. However, in Open Records Decision No. 586 (1991), we concluded that the need of a governmental body, other than the one that has failed to timely comply with the requirements for requesting an attorney general decision under the Open Records Act, to withhold information from disclosure may be a compelling reason to overcome the presumption that the information is public. Therefore, we will consider the section 552.108 argument that you make on behalf of the district attorney.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." The district attorney has asked that you withhold the requested records because they relate to a pending criminal prosecution. Based upon this representation, we conclude that the release of the records would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.]

1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the department may withhold the records from disclosure under section 552.108(a)(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is written in a cursive style with a large, stylized "K" and "H".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 114479

Enclosures: Submitted documents